IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 4625 of 2003

Between:

V.Rajender Reddy, S/o Komara Reddy, Ex.Driver,
E.No. 380226, R/o Wanaparthy, Mahaboobnagar District.

..... PETITIONER

AND

1 The Labour Court-III, rep. by its Presiding Officer,
Chandravihar Building, 4th Floor, M.J.Road, Hyderabad-1.
2 The Depot Manager, A.P.S.R.T.C.,
Wanaparthy, Mahaboobnagar District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to call for the records from the 1st respondent and issue an appropriate Writ, order or Direction, particularly one in the nature of Writ of Certiorari and quash the Award passed by the 1st respondent in I.D.No.214 of 1999, dated 3.10.2002 published on 13.12.2002, holding the same as illegal, unjust, contrary to law and perverse, by granting the relief reinstatement with continuity of service and other attendant benefits;

Counsel for the Petitioner: MR.A.K.JAYAPRAKASH RAO

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: Mr. P.Vinayaka Swamy

The Court made the following :

ORDER:

Heard Sri A.K.Jayaprakash Rao, learned counsel appearing for the petitioner; P.Vinayakaswamy, learned standing counsel for the second respondent and the learned Government Pleader for Labour appearing on behalf of the first respondent.

The petitioner, who had been working as a Driver with the second respondent-corporation, filed this Writ Petition, *inter alia*, seeking to assail Nil award dated 03.10.2002 passed by the first respondent in I.D. No.214 of 1999, as illegal.

The case of the petitioner, in brief, is that initially he joined service with the second respondent as Driver on 03.05.1990 and put in service. Subsequently, on the ground of unauthorised absence, a charge sheet was issued to him on 06.08.1994 and ultimately, after holding enquiry, removal order was passed by the second respondent on 16.01.1995. Thereupon, after exhausting all other remedies, the petitioner raised the impugned Industrial Dispute, which was dismissed by the first respondent. Hence, the Writ Petition.

Learned counsel appearing for the petitioner submits that the only charge against the petitioner is in regard to unauthorised absence, and especially taking in view his conduct and service record and age, the quantum of punishment as awarded is quite serious and has no nexus with the gravity of the allegations made against him.

The learned standing counsel appearing on behalf of the second respondent sought to repel the said contention on the ground that having regard to such continued absence and that too when the petitioner went to a foreign country viz.Dubai, for gainful employment, no indulgence need be shown.

Having considered the submissions made and on perusal of the material, the question which arises for consideration is as to whether the petitioner is entitled to be reinstated by setting aside the order of removal or any other reliefs ?

There is no dispute to the fact that the petitioner was working as a Driver with the second respondent and there are no other allegations in regard to his past service. However, having regard to his unauthorised absence, he was issued the charge sheet and subsequently, after enquiry, removal order was passed on 16.01.1995. The case of the petitioner is that he applied for leave and filed medical certificate advising to take rest and sent message to the above effect, and thus, the absence is absolutely not willful. However, it is now brought to the notice of the Court, as admittedly pointed out by the first respondent in its award, the petitioner had gone to a foreign country for a gainful employment and his absence is not for quite some time but for a longer period spread over 4 ½ years and thereafter he reported to duty. There is absolutely no justification on behalf of the petitioner for absence for such longer period. The very fact of his long absence shows that the petitioner has apparently been in search of a better avocation and employment elsewhere and that too outside the country, and having come back, he wants to be taken back to the duty. Admittedly, the petitioner was not only absent, but also went outside the country without prior leave or permission from the second respondent-corporation and therefore, it can not be said that his absence or even going to other country for better employment, is justified. In view of the same, the order of removal is perfectly valid and it can not be said to be disproportionate to the gravity of charge. Having regard to aforesaid circumstances, I do not find any reason to show indulgence in this Writ Petition. There are absolutely no merits in this Writ Petition.

The Writ Petition is, accordingly, dismissed. No costs.

(B.Prakash Rao, J.)

04.03.2005

DRK

Copy to:

1 The Presiding Officer, Labour Court-III,
Chandravihar Building, 4th Floor, M.J.Road, Hyderabad-1.
2 The Depot Manager, A.P.S.R.T.C., Wanaparthy, Mahaboobnagar District.

3)Two CCs to the G.P. for Labour, High Court of A.P., High Court buildings, Hyderabad (o.u.t.)

4)Two CD copies.